Remarks

Claims 1-11 are pending in the application. Claims 1, 2, 4, 5, 6 and 8-11 have been amended, and claims 3 and 7 have been canceled. After entry of the foregoing amendments, claims 1, 2, 4, 5, 6 and 8-11 will be pending. No new matter has been introduced by entry of the claim amendments. Support for the new claim language may be found throughout the application as originally filed.

1. *Suggested Claim For The Purpose Of An Interference*

On page 2 of the outstanding Office Action, a claim is suggested for the purpose of an interference. The Office Action indicates: (1) there is a one month, non-extendible deadline for the submission of the claim; and (2) absent a timely submission, the subject matter of the claim is disclaimed under 37 C.F.R. § 1.605(a).

Applicants thank the Examiner for assistance provided by telephone in regards to this matter and the non-extendible deadline associated therewith. Applicants have submitted a Petition under 37 C.F.R. § 1.183 for Suspension of the Rules (copy attached) in order that Applicants may provide a response to this requirement of the outstanding Office Action.

Applicants assert that the subject matter encompassed by the suggested claim is not willingly disclaimed at this point in time. Applicants aver that the Petition for Suspension of the Rules should be granted because of the following reasons: (1) a substantially similar claim existed in the application and the requirment, therefore, was unnecessary; (2) the one month requirement for response was effectively "hidden" from Applicants; the notice was not placed on the first page of the Office Action, thereby limiting Applicants' opportunity to be notified in a timely fashion; and (3) a change in Applicants' representation occurring concurrently with the one month requirement, thereby placing Applicants' at a disadvantage for providing a timely response.

2. *Objections to the Specification:*

A) To the Title

Applicants have amended the title to be more particularly descriptive of the claimed invention. This amendment does not constitute new mater, in that support for this amendment

can be found throughout the patent application as filed. Accordingly, Applicants respectfully request withdrawal of the objection to the title.

B) To the Abstract

Applicants have amended the specification to include an abstract on a separate sheet as required under 37 C.F.R. § 1.72(b). This amendment does not constitute new mater, in that support for this amendment can be found throughout the patent application as filed. Accordingly, Applicants respectfully request withdrawal of the objection to the abstract.

C) To the Disclosure

Appropriate correction of the specification for the formalities identified on page 4 of the Office Action were made. These amendments do not constitute new mater, in that support for these amendments can be found throughout the patent application as filed. Accordingly, Applicants respectfully request withdrawal of the objection to the Disclosure.

3. ***Objection to the Claim 6***

Claim 6 is objected to under 37 C.F.R. § 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Applicants have amended claim 6 to be dependent on claim 1. This amendment does not constitute new mater, in that support for this amendment can be found throughout the patent application as filed. Accordingly, Applicants respectfully request withdrawal of the objection to claim 6 in view of this amendment.

4. ***Rejection of Claims 1-11 Under 35 U.S.C. § 112, First Paragraph***

On page 5 of the Office Action, claims 1-11 stand rejected under 35 U.S.C. § 112, first paragraph, as not being enabled. More specifically, the Office Action indicates that the disclosure does not enable a nucleic acid sequence which prevents the development of plant transformants having more vector sequences than the T-DNA sequence.

Applicants have amended the claim to recite that the vector comprises a T-DNA sequence, the T-DNA sequence comprising a sequence located between two direct repeats, and a gene encoding a toxin gene and/or a nucleotide sequence that interferes with DNA unwinding.

Applicants aver that the functional language referred to in the claim as originally filed is not necessary for the composition and method claims of the invention.

These amendments do not constitute new matter; support for these amendments may be found throughout the application as a filed. In view of the claim amendments, Applicants request reconsideration and withdrawal of the outstanding 35 U.S.C. § 112, first paragraph, rejection.

5. ***Rejection of Claims 1-4 and 6-11 Under 35 U.S.C. § 112, First Paragraph***

On page 6, the Office Action indicates that claims 1-4 and 6-11 are rejected under 35 U.S.C. § 112, first paragraph, because the specification does not reasonably provide enablement for a vector comprising a DNA sequence to the left of the T-DNA left border sequence encoding any toxic compound, any GC rich DNA sequence, or a sequence to which any DNA-binding protein interacts, and a method of using said vector or a plant cell comprising said vector. However, the Office Action further indicates that the specification is enabling for different vectors comprising (1) a barnase-encoding DNA sequence; (2) a GC clamp sequence comprising SEQ ID NO:5 and 6; or (3) DNA sequence to which vir G binds.

The Office Action further indicates that the specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate with the scope of these claims. The Office Action states that the "state of the art for transformation of plants using a Ti-plasmid vector system is unpredictable."

Applicants respectfully traverse this rejection.

Applicants bring to the Examiner's attention that it is not necessary to disclose every species encompassed by a claim even in an unpredictable art (*In re Angstadt*, 190 U.S.P.Q. 214, 218 (CCPA 1976)). Further, while the predictability of the art can be considered in determining whether an amount of experimentation is undue, mere unpredictability of the result of an experiment is not a relevant consideration. The Court of Custom and Patent Appeals (C.C.P.A.) specifically cautioned in *In re Angstad* that the unpredictability of the result of an experiment is not a basis to conclude that the amount of experimentation is undue. In particular, the C.C.P.A. stated:

> [If to fulfill the requirements of 112, first paragraph, an applicant's] disclosure must provide guidance which will enable one skilled in the art to determine, *with reasonable certainty before performing the reaction* whether the claimed product will be obtained, . . . then *all* "experimentation" is "undue" since the term "experimentation" implies that the success of the particular activity is *uncertain*. Such a proposition is contrary to the basic policy of the Patent Act.

Angstadt, 190 U.S.P.Q. at 219 (emphases in the original).

As Judge Rich explained in *In re Vaeck*, 20 U.S.P.Q.2d 1438, 1445 (Fed. Cir. 1991), the statutory enablement requirement is satisfied if the specification "adequately guides the worker to determine, without undue experimentation, which species among all those encompassed by the claimed genus possess the disclosed utility."

The specification of the captioned application provides such disclosure, and the Office Action does acknowledge that the specification is enabling for certain species of the claimed invention for different vectors comprising (1) a barnase-encoding DNA sequence; (2) a GC clamp sequence comprising SEQ ID NO:5 and 6; or (3) DNA sequence to which vir G binds.

Thus, the Application does meet the requirements of 35 U.S.C. § 112, first paragraph, in providing an enabling disclosure for certain species of the claimed genus.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. § 112, first paragraph.

6. ***Rejection of Claims 1-11 Under 35 U.S.C. § 112, Second Paragraph***

Claims 1-11 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for the following reasons.

Claims 1-11 are indefinite for failure to include an article of language. In response applicants have amended the claims to include the proper article.

Claim 1 is indefinite because the relationship between "nucleic acid sequence" at line 3 and "T-DNA border" of line 2 is unclear. In response, Applicants have amended the claim to more clearly, i.e., to more clearly distinguish the relationship between genes encoded by the vector.

Claim 1 is indefinite because the metes and bounds of the term "prevents" in relationship to "development of plant transformants" is unclear. In response, Applicants have amended the claim to eliminate the functional language for this composition claim.

Claim 1 is indefinite because the terms "having" and "more vector sequence than the T-DNA" are unclear. In response, Applicants have amended the claim, eliminating functional language for this composition claim.

Claim 2 is indefinite because the term "T-DNA sequence" at line 3 lacks proper antecedent basis and the terms "preferably" and "such as" are indefinite. In response, Applicants have amended the claim, eliminating the terminology, thereby rendering the issue moot.

Claim 2 is indefinite for being in improper Markush group format. In response, Applicants have amended the claim to be in proper Markush format.

Claims 3-7 are indefinite because they contradict claim 1. In response, Applicants have amended the claims so they are no longer contradictory to claim 1.

Claim 6 is indefinite because the phrase "high GC-content" is a relative and does not meet the metes and bounds of the claimed invention. In response, Applicants have amended the claim to more particularly define the phrase.

Claims 6 and 7 are improperly dependent upon claim 5 because they provide no further limitation of the scope of claim 5. In response, Applicants amended claims now are properly dependent.

Claims 6, 7, and 10 are indefinite because the term "preferably" and the phrase "more preferable" do not state the metes and bounds of the invention. In response, Applicants have amended these claims to remove this language.

Claim 8 is indefinite because the term "outside" is unclear. In response, Applicants have amended the claim to remove this language.

Claims 8, 9, and 11 are improper because the phrase "a vector" should read "the vector." In response, Applicants have amended these claims to correct the matter.

Claim 10 is indefinite because is improperly dependent upon claim 5 and the word "member" should read "member." In response, Applicants have amended the claim correct these matters.

Claim 11 is incomplete because no method steps are given. In response, Applicants have amended this claim to include method steps.

In view of the above amendments, Applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. § 112, second paragraph.

7. ***Rejection Of Claims 1-3 and 6-11 Under 35 U.S.C. § 103***

Claims 1-3 and 6-11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ramanathan *et al.* (*Plant Molecular Biology* **28**:1149-1154 (1995)) in view of Odell *et al.* (U.S. Patent No. 5,658,772).

Applicants traverse this rejection. Applicants point out that on page 2, section 1, of the outstanding Office Action, a claim is proposed for the purpose of an interference. More

specifically, the Office Action indicates "The following allowable claim is suggested for the purpose of an interference." (emphasis added) Thus, the proposed claim is deemed to be inventive over the prior art. Applicants assert that the rejection of claims 1-3 and 6-11 under 35 U.S.C. § 103(a) is inappropriate in view of the allowability of the proposed claim, the subject matter of which is embodied in the rejected claims.

Obviousness may only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. (*In re Fine*, 837 E2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 E2d 347,21 USPQ2d 1941 (Fed. Cir. 1992)). Moreover, there must be a reasonable expectation of success. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure(*In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)). The test for obviousness also requires that all of the claim limitations must be taught or suggested by the prior art (*In re Royka*, 490 E2d 981 180 USPQ 580 (CCPA 1974)). "All words in a claim must be considered in judging the patentability of that claim against the prior art." (*In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970)). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. (*In re Fine*, 837 E2d 1071, 5 USPQ2d 1596 (Fed. Cir. 4988)).

The Office Action states that Ramanathan *et al.* teach the transfer to a plant cell of non-T-DNA portions of a *Agrobacterium tumefaciens* Ti plasmid. Odell *et al.* teach the use of the Barnase gene to disrupt plant cells. On page 11, paragraph 4, the Office Action states that the Ramanathan *et al.* reference does not teach the incorporation of a toxin-encoding sequence or a stop-transfer signal adjacent to the left T-DNA border. Applicants also note that the Odell *et al.* reference does not teach or suggest the insertion of either sequence adjacent to the left T-DNA border.

Applicants aver that the combined references of Ramanathan *et al.* and Odell *et al.* do not suggest or motivate the skilled worker possessing knowledge generally available to one of ordinary skill in the art to make the claimed invention. Obvious to try is not the proper standard under 35 USC 103(a) (*In re Fine*, 837 F.2d 1071, 1075, 5 USPQ2d 1596, 1599 (Fed. Cir. 1988)("whether a particular combination might be 'obvious to try' is not a legitimate test of

patentability")). Nor is hindsight or the use of Applicants' disclosure permissible in attempting to combine references for the purpose of a arriving at a finding of obviousness for the claimed invention. Neither does the combination of the references cited in the Office Action provide an expectation of success.

Applicants respectfully request withdrawal of the rejection of claims 1-3 and 6-11 under 35 U.S.C. § 103(a) and early allowance of the claimed invention.

8. ***Rejection Of Claims 3, 6 and 7 Under 35 U.S.C. § 103***

Claims 3, 6 and 7 are rejected under 35 U.S.C. § 103(a) as being *prima facie* obvious to one of ordinary skill in the art to modify the vector of Ramanathan *et al.* to include a GC rich region adjacent to the left border, since properties of GC rich regions have been long recognized in the art.

Applicants traverse the instant rejection. For the reasons stated *supra* related to the allowability of the claim proposed for interference purposes, Applicants aver that the instant rejection is inappropriate. Moreover, Applicants traverse the rejection of claims 3, 6, and 7 on the basis that there could be no reasonable expectation of success. A reasonable expectation of success is assessed from the perspective of the person of ordinary skill in the art. The fact that the inventors were ultimately successful is irrelevant to whether one of ordinary skill in the art, at the time the invention was made, would have reasonably expected success. The Federal Circuit has clearly established that it is impermissible to use hindsight--using the inventors' success as evidence that the success would have been expected (*In re Kotzab*, 217 F.3d 1365, 1369, 55 USPQ2d 1313, 1316 (Fed. Cir. 2000) (noting the importance of casting the mind back to the time of the invention to avoid the `insidious effect of a hindsight syndrome wherein that which only the invention taught is used against its teacher')."

Applicants agree with the Office Action in that the *in vitro* thermodynamic stability characteristics of GC-rich DNA sequences are well established in the art. However, Applicants assert that the *in vivo* properties of this type of DNA sequence are not wholly predictable. As noted on page 12, paragraph 2, of the Office Action, such sequences resist transcription and often cause DNA polymerases to fall off such regions during DNA replication. Thus, such sequences could theoretically inhibit the simple replication and propagation of a plasmid in a host cell.

Applicants submit that there is no reasonable basis absent Applicants' disclosure to believe that a sequence rich in GC content would provide the desired effect of limiting adjacent left-border DNA sequence transfer. Moreover, Applicants assert that the art may be interpreted to teach away from the use of such sequences, since this type of sequence is known to create problems for DNA polymerase(s) during replication.

On the basis of remarks provided herein, Applicants request withdrawal of the outstanding rejection of claims 3, 6, and 7 under 35 U.S.C. § 103(a) and early allowance of the pending claims.

Conclusion

It is not believed that extensions of time or fees for net addition of claims are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor (including fees for net addition of claims) are hereby authorized to be charged to our Deposit Account No. 08-0219.

Applicants encourage the Examiner to contact the undersigned representative by telephone to resolve questions and expedite allowance of the captioned application.

Respectfully submitted,

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Date: August 28, 2001

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Marked-Up Version of the Specification

Amendment to the Specification

On page 1, line 1, please delete the title and add the following:

[PLASMIDS FOR PLANT TRANSFORMATION AND METHOD FOR USING THE SAME] SELECTIVE TI-PLASMIDS AND METHODS OF USING THE SAME

On page 1, line, please delete the title and add the following:

[FIELD OF THE INVENTION] Background of the Invention

On page 1, line 12, please delete the title and add the following:

[Background of the Art] Description of the Related Art

On page 2, line 26, please delete the title and add the following:

[SUMMARY OF THE INVENTION] Brief Summary of the Invention

On page 9, lines 25, 28, 29, 32, and 34, please delete the paragraph and add the following:

Transformation of plant species is now routine for an impressive number of plant species, including both the *Dicotyledoneae* as well as the *Monocotyledoneae*. In principle any transformation method may be used to introduce chimeric DNA according to the invention into a suitable ancestor cell. A preferred method according to the invention comprises *Agrobacterium*-mediated DNA transfer. Especially preferred is the use of the so-called binary vector technology (as disclosed in EP A 120 516 and U.S. Patent 4,940,838).

Tomato transformation is preferably done essentially as described by Van Roekel et al. (Van Roekel, J.S.C., Damm, B.,

Melchers, L.S., Hoekema, A. (1993)]. Factors influencing transformation frequency of tomato (*Lycopersicon esculentum*). Plant Cell [Reports, 12, 644-647). Potato transformation is preferably done essentially as described by Hoekema et al. (Hoekema, A., Huisman, M.J., Molendijk, L., van den Elzen, P.J.M., and Cornelissen, B.J.C. (1989)]. The genetic engineering of two commercial potato cultivars for resistance to potato virus X. [Bio/Technology 7, 273-278).

On page 11, lines 15 and 33, please delete the paragraph and add the following:

A 40 bp GC-rich stretch was created by annealing SEQIDNO:5 and -6 to each other. Insertion of this fragment into a SalI site will leave a SalI site at only one end intact. The double stranded synthetic oligo was phosphorylated by T4 polynucleotide kinase and cloned into the SalI-digested pNE03 vector. The resulting plasmid pNE07 has the GC-rich stretch inserted at the SalI site, which results in removal of the SalI site at the side nearest the left T-DNA border. A schematic representation of the orientation is presented in [f] Fig. 1

The fragment containing VirG binding sites is derived from the VirB promoter of Agrobacterium strain EHA 101. The VirB promoter was previously shown to contain two vir-box sequences which are both recognised by VirG (Das and Pazour, 1989, Nucl. Acids Res. 17, 4541-4150). The Vir-box alone is thought not to be sufficient for binding of the VirG protein, additional specific nonconserved sequences 3' to the Vir-box, approximately

19 bp, are most likely also required for binding of the VirG protein. The primers SEQ ID NO: 7 and -8 were used for PCR amplification of an appr. 90 bp VirB promoter fragment from Agrobacterium tumefaciens strain MOG101. The fragment was digested with SalI and AvaI, and introduced into the unique Sal I site of the pNE03 vector. Again this fragment is oriented so that the SalI-AvaI ends are joined closest to the Left Border. A schematic representation of the orientation is presented in [f] Fig. 1. This vector is denominated pNE09.

On page 12, line 34, please delete the paragraph and add the following:

An EcoRI-HindIII fragment from pMOG1059 contained a GUS expression cassette containing 1) the FdrolD chimeric promoter and untranslated sequences (Patent Appl. No. 97203912.7 filed 12/12/97), 2) a GUS Open Reading Frame containing an StLS1 intron (Vancanneyt et al., 1990, Mol. Gen. Genet. 220-245-250) and 3) 3' untranslated/ terminator sequences of the proteinase inhibitor II gene (Thornburg et al., 1987, Proc. Natl. Acad. Sci. USA 84, 744-748). This EcoRI-HindIII fragment was inserted into the EcoRI-HindIII sites of binary vectors pNE10, -11 and -12 between the borders. The GUS cassette is closest to the Right Border, the nptII selection marker cassette is found closest to the Left Border (see [f] Fig 1). As an unmodified control pMOG1059 was used, of which the vector sequences are the unmodified pMOG800 backbone. pMOG1313 is the binary vector that has the FdrolD-GUS cassette on the T-DNA and contains the GC clamp next to its left border, pMOG1314 identical within the T-DNA, but contains the

virG binding sites next to the left border, pMOG1315 again has the same T-DNA sequences and contains the barnase cassette next to the left border. Likewise, pMOG1316 contains both the GC clamp and the barnase cassette and pMOG1317 the virG binding sites followed by the barnase cassette.

On page 13, line 17, please delete the paragraph and add the following:

Potato stem segments of cv. Kardal were transformed with *Agrobacterium tumefaciens* strain EHA 105 in three separate transformation experiments using a standard transformation protocol (as described in PCT/EP 98/02979). Per construct a minimum of 150 explants were used. Usually this will lead to regeneration of about 90 transformants/construct. Transformation frequency was determined as the number of regenerants able to root under selective pressure on kanamycin-containing growth medium relative to the number of explants used. For [t] Table [1] 2 we normalized the transformation frequency to 1.0 for the control construct pMOG1059.

On page 13, line 21, please delete the paragraph and add the following:

Table [1] 2. Average relative transformation frequencies observed with constructs tested. All values were normalized per transformation experiment to pMOG1059 (set at 1.00). The values were averaged from three independent transformation experiments.

On page 14, lines 9 and 28, please delete the paragraph and add the following:

After amplification the obtained PCR fragments were electrophoresed on a 0.8% agarose gel containing Ethidium

Bromide. After photography the different fragments were counted and the percentage of readthrough determined (see [t] Table] [2] 3 for compilation).

Next we analyzed the presence of DNA fragments spanning the left and right T-DNA borders by PCR, fragments indicative of integration of vector DNA in transformants. Per construct, 75 individual lines were analyzed for outer border sequences by a multiplex PCR. Six primers were used for the multiplex PCR with npt II primers as an internal control. For the location of primers on the binary vectors see [f] Fig 2.

On page 14, line 31, please delete the paragraph and add the following:

Table [2] 3: Percentages of individual transformants with sequences spanning the left and right borders.

On page 16, line 32, please delete the paragraph and add the following:

Each sample was separated on a 0.7% agarose gel for approximately 16 hours at 2V/cm. The DNA was transferred to a nylon membrane (Hybond-N+, Amersham Life Science) using southern blotting with 0.4 M NaOH. The blot was hybridized (16 hours, 65°C) using a 558 bp GUS fragment (NcoI-EcoRV fragment of pMOG18; Sijmons et al., Biotechnology vol. 8, March 1990, page 217-221) labeled with 32P-dCTP as a probe. Then the blot was washed with a stringency of 0.2x SSC at 65°C. The results of the southern blot are listed in [t] Table [3] 4.

On page 17, line 1, please delete the paragraph and add the following:

Table [3] 4. Number of T-DNA inserts observed in various individual lines transformed with pMOG1059 and pMOG1317.

Marked-Up Version of the Claims

Amendment to the Claims

1. (Amended) A vector for plant transformation comprising a T-DNA sequence, the T-DNA sequence comprising [with flanking T-DNA borders] a sequence located between two direct repeats, and a gene encoding a toxin gene and/or a nucleotide sequence that interferes with DNA unwinding [characterized in that the vector further comprises which prevents the development of plant transformants having more vector sequences than the T-DNA sequence].

2. (Amended) The vector according to claim 1, [characterized in that the nucleic acid sequence which prevents the development of transformants having more vector sequences than the T-DNA sequence] wherein the gene encoding a toxin gene is selected from the group consisting of an RNAse, a DNAse, a phytotoxin, a diphteria toxin, a protease[s], and an antisense sequence for a housekeeping gene, [such as] wherein the housekeeping gene is selected from the group consisting of an ATP synthase gene, a cytochrome c gene, a pyruvate kinase gene, an aminoacyl transferase gene, a phosphate translocator gene, a dicarboxylate translocator gene, dicarboxylate translocator gene, a 2-oxo-glutarate translocator[s] gene.

[3. Vector according to claim 1, characterized in that the nucleic acid sequence which prevents the development of transformants having more vector sequences than the T-DNA sequence does not allow readthrough by comprising a sequence which prohibits unwinding of the DNA.]

4. (Amended) The vector according to claim [3] 1, [characterized in that the nucleic acid sequence prevents the development of transformants having more vector sequences than the T-DNA sequence by comprising] wherein the nucleotide sequence that interferes with DNA

unwinding is a sequence which binds a DNA binding proteins.

5. (Amended) The vector according to claim 4, [characterized in that] wherein the sequence which binds DNA binding proteins is a vir box [preferably] of the sequence 5' TNCAATTGAAAY 3' [(in which] wherein N is any nucleotide and Y is a pyrimidine base nucleotide (T or C)[)].

6. (Amended) The vector according to claim [5] 1, [characterized in that] wherein the sequence which [prohibits] interferes with [unwinding of] DNA unwinding is a sequence of 20-60 basepairs[which has a high] with a GC-content of more than 80%[, preferably a sequence of 20-60 basepairs, more preferably a sequence of about 40 basepairs].

[7. Vector according to claim 5 or 6, characterized in that the sequence has a GC-content of more than 80%, preferably more than 90%.]

8. (Amended) A method for obtaining a transgenic plant[s] comprising transforming a plant cell with the vector of claim 1, 2, 4, 5 or 6, selecting a transformed cell, and producing a plant from the transformed cell. [which do not contain vector sequences outside the T-DNA by transforming plants with a vector according to any of claims 1-7.]

9. (Amended) A plant host [containing] comprising the [a] vector according to [any of] claim[s] 1, 2, 4, 5, or 6. [1-7].

10. (Amended) The host according to [of] claim [5] 9, wherein the host is [characterized in that it is] a member of the Agrobacteriaceae, [more preferably *Agrobacterium* or *Rhizobacterium*, most preferably *Agrobacterium tumefaciens*.]

11. (Amended) A method for the transformation of plants [characterized in that a vector of any of claims 1 to 7 is used.] comprising transforming a plant cell with the vector of claim 1, 2, 4, 5 or 6 and selecting the transformed cell